

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

## DAVID ERNESTO MACKEY.

No. 1:20-cv-01813-NONE-BAM (PC)

**Plaintiff,**

v.

GOVERNMENT CLAIMS PROGRAM, *et al.*,

### Defendants.

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS REGARDING  
DISMISSAL OF ACTION

(Doc. No. 9)

Plaintiff David Ernesto Mackey is a civil detainee proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff is being detained pursuant to California’s Mentally Disordered Offender (“MDO”) law, California Penal Code §§ 2970, *et seq.* Individuals detained under the MDO law are considered civil detainees and are not prisoners within the meaning of the Prison Litigation Reform Act. *Page v. Torrey*, 201 F.3d 1136, 1140 (9th Cir. 2000).

On April 15, 2021, the assigned magistrate judge screened plaintiff's first amended complaint and issued findings and recommendations recommending that this action be dismissed based on plaintiff's failure to state a cognizable claim upon which relief may be granted. (Doc. No. 9.) On April 26, 2021, plaintiff timely filed objections to the findings and recommendations. (Doc. No. 10.)

1 Plaintiff's objections to the magistrate judge's findings and recommendations merely  
2 reiterate the conclusory allegations from the first amended complaint and do not provide any  
3 basis for rejecting the reasoning of the pending findings and recommendations.

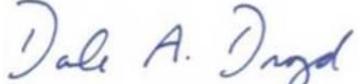
4 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a  
5 *de novo* review of this case. Having carefully reviewed the entire file, including plaintiff's  
6 objections, the court finds the findings and recommendations to be supported by the record and  
7 by proper analysis.

8 Accordingly,

- 9 1. The findings and recommendations issued on April 15, 2021, (Doc. No. 9), are  
10 adopted in full;  
11 2. This action is dismissed, with prejudice, due to plaintiff's failure to state a cognizable  
12 claim upon which relief may be granted; and  
13 3. The Clerk of the Court is directed to close this case.

14 IT IS SO ORDERED.

15 Dated: May 19, 2021

  
16 UNITED STATES DISTRICT JUDGE

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28